

**OCCUPATIONAL SAFETY  
AND HEALTH STANDARDS BOARD**

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**NOTICE OF PROPOSED MODIFICATION TO  
CALIFORNIA CODE OF REGULATIONS**

**TITLE 8: Division 1, Chapter 4, Subchapter 7, Article 88, Section 4848  
of the General Industry Safety Orders**

**Update of Welding Fire Prevention and Suppression Procedures**

Pursuant to Government Code Section 11346.8(c), the Occupational Safety and Health Standards Board (Standards Board) gives notice of the opportunity to submit written comments on the above-named standard in which modifications are being considered as a result of public comments and/or Standards Board staff consideration.

On April 15, 2010, the Standards Board held a Public Hearing to consider revisions to Title 8, Section 4848 of the General Industry Safety Orders. The Standards Board received oral and written comments on the proposed revisions. The standards have been modified as a result of these comments and Standards Board consideration.

A copy of the modifications clearly indicated is attached for your information. In addition, a summary of all oral and written comments regarding the original proposal and staff response is included.

Any written comments on these modifications must be received by 5:00 p.m. on June 7, 2010, at the Occupational Safety and Health Standards Board, 2520 Venture Oaks Way, Suite 350, Sacramento, California 95833. The standards will be scheduled for adoption at a future business meeting of the Standards Board.

The Standards Board's rulemaking files on the proposed action are open to public inspection Monday through Friday, from 8:00 a.m. to 4:30 p.m., at the Standards Board's office.

Inquiries concerning the proposed changes may be directed to the Executive Officer, Marley Hart, at (916) 274-5721.

**OCCUPATIONAL SAFETY AND HEALTH  
STANDARDS BOARD**

*Original signed by*

Date: May 18, 2010

Marley Hart, Executive Officer

**PROPOSED MODIFICATIONS**  
(Modifications are indicated in  
double underline wording for new language)

**STANDARDS PRESENTATION**  
**TO**  
**CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

Attachment No. 1

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PROPOSED STATE STANDARD,  
TITLE 8, CHAPTER 4

Amend Section 4848 to read:

§4848. Fire Prevention and Suppression Procedures and Methods.

(a) The employer shall establish a fire prevention and suppression procedure whenever any of the operations and processes covered by Sections 4794(a) and 4850(a) are conducted on its property. The employer shall issue and implement instructions on fire prevention and suppression procedures based upon the requirements contained in American National Standards Institute (ANSI/ASC) Z49.1-94, Safety In Welding, Cutting and Allied Processes, Chapters 3 and 6, and National Fire Protection Association (NFPA) 51B-~~1999~~2009, Standard for Fire Prevention During Welding, Cutting, and Other Hot Work, Chapters ~~3-7~~3-7, which are hereby incorporated by reference.

(b) Welding blankets, curtains and pads shall be approved for their intended use in accordance with Section 3206 of these Orders.

NOTE: Authority cited: Section 142.3, Labor Code. Reference: Section 142.3, Labor Code.

## **SUMMARY AND RESPONSE TO COMMENTS**

## **SUMMARY AND RESPONSE TO WRITTEN AND ORAL COMMENTS**

### **I. Written Comments**

Mr. John R. McCullough CSP, Assistant Vice President, Well Fargo Insurance Services USA, Inc., by letter dated February 25, 2010.

Comment No. 1: Mr. McCullough suggested publishing the text of the incorporated by reference NFPA 51B-2009 standard to display to the public all of the NFPA requirements, which include more than just the definitions.

Response: It is not possible to publish the referenced NFPA standard, as it would constitute a violation of copyright law, since the referenced NFPA document is copyrighted. However, as stated in the Initial Statement of Reasons, the Board makes available for public review the referenced document at the Standards Board office. The referenced NFPA 51B standard is also available for purchase through the NFPA and at discounted cost for NFPA members. The safety precautions contained in the updated NFPA 51B standard amount to inexpensive insurance against a serious fire and/or explosion which could result in loss of life, property and productivity.

Comment No. 2: The referenced NFPA 51B standard, Chapter 2.1 contains references to other national consensus standards. Mr. McCullough asked if by incorporating by reference the NFPA 51B-2009 standard the other documents contained in Chapter 2.1 are also automatically incorporated by reference.

Response: The proposal has been modified so that Chapter 2.1 is no longer being incorporated by reference.

Comment No. 3: Mr. McCullough suggested including a website address for NFPA that would link the end user with the NFPA 51B standard to make it easier for employers to know what they need to comply with.

Response: The website link provided by Mr. McCullough only provides a link to the NFPA website for the NFPA 51B-2009 standard and requires paid membership and possibly additional document purchase cost for an employer to actually be able to access and view the document. In the past the Board has rejected staff proposed language to include website addresses within the text of Title 8 standards because website addresses are known to be changed, moved or eliminated entirely thereby rendering the link useless, in which case, the standard containing the link would be misleading.

Comment No. 4: Mr. McCullough stated he did not see the need to add a new subsection (b) which contains a requirement for approved welding blankets, curtains and pads, since the referenced NFPA 51B-2009 section 5.4.2 requires the use of listed or approved welding blankets, welding pads or equivalent.

Response: Section 5.4.2 of the NFPA 51B-2009 pertains to hot work permit requirements and says nothing about listed or approved welding blankets, pads or curtains. Therefore, to assure employers utilize safe welding blankets, pads and or curtains that are designed and fabricated in accordance with appropriate national consensus standards (approved for their intended use), the proposal clarifies to employers that such equipment is to be approved as described in Section 3206 of the General Industry Safety Orders. For this reason the Board believes that subsection (b) is not redundant; it is needed to ensure the safety of workers who need to shield combustible materials.

Mr. Ken Nishiyama Atha, Regional Administrator, U.S. Department of Labor, Occupational Safety and Health Administration by letter dated March 17, 2010.

Comment: The proposed modification replaces the reference to the 1999 NFPA 51B Chapter 3 with the entire 2009 NFPA 51B standard for Fire Prevention During Welding, Cutting and Other Hot Work. The proposed modification is at least as effective as the federal program.

Response: The Board thanks Mr. Nishiyama Atha for his comment and support of the rulemaking process.

## II. Oral Comments

Oral comments received at the April 15, 2010, Public Hearing in Sacramento, California.

Dr. Jonathan Frisch, Occupational Safety and Health Standards Board (OSHSB) member

Comment: Dr. Frisch asked whether the ANSI Z49.1-94 standard is available to the public.

Response: The ANSI Z49.1-94 standard is still available from ANSI.

John MacLeod, Board Chairman, Mr. Bill Jackson, Mr. Willie Washington, Mr. Jack Kastorff, Dr. Jonathan Frisch, OSHSB members

Comment: The aforementioned Board members discussed the incorporation by reference of consensus standards and concerns as to whether stakeholders would have access to the documents. Mr. Washington suggested linking the documents to the searchable Title 8 Index, while Mr. Jackson noted that free access to NFPA documents is available. Mr. Kastorff stated that incorporation by reference should be avoided.

Response: Board staff incorporates by reference only those portions of the national consensus standard(s) that are relevant and necessary to an effective rulemaking proposal and will consider the feasibility of linking documents incorporated by reference in the new searchable Title 8 Index. The documents incorporated by reference into this proposal are the minimum necessary to update this standard and thereby appropriately safeguard California employees. Copyright restrictions are discussed in the response to Mr. McCullough's written Comment No. 1. In addition, having California ignore the national consensus standard and develop its own

equivalent standard from scratch would mean that a great deal of delay and expense would be experienced.